

Exhibit H

Harder, Bradley

From: Paul Farrell Jr. <Paul@FarrellFuller.com>
Sent: Wednesday, February 14, 2024 8:00 PM
To: Boone, Brian
Subject: Re: MDL2804: PBM: Optum DR22 deficiency letter

EXTERNAL SENDER – Proceed with caution

Acceptable.
That was a cheap shot today.
I don't give second chances.

Paul T. Farrell, Jr., Esq.

Farrell & Fuller, LLC
270 Munoz Rivera Ave., Suite 201
San Juan, Puerto Rico 00918
phone: 304.654.8281
email: paul@farrellfuller.com

"Facts are stubborn things."

-John Adams
President of the United States.
Trial lawyer.

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On Feb 14, 2024, at 8:04 PM, Boone, Brian <Brian.Boone@alston.com> wrote:



Caution: External
(brian.boone@alston.com)
First-Time Sender



GUA

Paul:

We will respond to this letter next Wednesday (February 21). I will be traveling Monday and Tuesday.

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brian.boone@alston.com

From: Paul Farrell Jr. <Paul@FarrellFuller.com>
Sent: Wednesday, February 14, 2024 9:05 AM
To: David R. Cohen (David@SpecialMaster.Law) <david@specialmaster.law>; Sage Vanden Heuvel <sagevandenheuvel@quinnemanuel.com>
Cc: Peter Mougey <pmougey@levinlaw.com>; Page Poerschke <ppoerschke@levinlaw.com>; PBM@LISTSERV.MOTLEYRICE.COM; McGowan, Emily <Emily.McGowan@alston.com>; Tara MacNeill <taramacneill@quinnemanuel.com>; Boone, Brian <Brian.Boone@alston.com>; Harder, Bradley <Bradley.Harder@alston.com>; Madison Shelquist <mshelquist@levinlaw.com>; Springer, Brandon <Brandon.Springer@alston.com>; Eric Lyttle <ericlyttle@quinnemanuel.com>; Chemerinsky, Kim <Kim.Chemerinsky@alston.com>; Jordan, Bill <Bill.Jordan@alston.com>; Olga Vieira <olgavieira@quinnemanuel.com>; Jonathan Cooper <jonathancooper@quinnemanuel.com>; ESI-Opioids <esi-opioids@quinnemanuel.com>
Subject: MDL2804: PBM: Optum DR22 deficiency letter

EXTERNAL SENDER – Proceed with caution

Dear OptumRx,

Attached please find a deficiency letter related to DR22. ESI should probably weigh in as well.

The parties have dug in pretty deep on this dispute already so not sure there is much left to discuss.

We have agreed to disagree.

We may want to proceed directly to briefing as ESI suggests below.

Doesn't make sense to me why you would want to proceed directly to motion practice on this, but lets discuss process on today's call.

Paul T. Farrell, Jr.
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President of the United States.
Trial lawyer.

From: Paul Farrell Jr.

Sent: Wednesday, February 14, 2024 9:27 AM

To: 'David R. Cohen (David@SpecialMaster.Law)' <david@specialmaster.law>; Sage Vanden Heuvel <sagevandenheuvel@quinnemanuel.com>

Cc: Peter Mougey <pmougey@levinlaw.com>; Page Poerschke <ppoerschke@levinlaw.com>; PBM@LISTSERV.MOTLEYRICE.COM; McGowan, Emily <Emily.McGowan@alston.com>; Tara MacNeill <taramacneill@quinnemanuel.com>; Boone, Brian <Brian.Boone@alston.com>; Harder, Bradley <Bradley.Harder@alston.com>; Madison Shelquist <mshelquist@levinlaw.com>; Springer, Brandon <Brandon.Springer@alston.com>; Eric Lyttle <ericlyttle@quinnemanuel.com>; Chemerinsky, Kim <Kim.Chemerinsky@alston.com>; Jordan, Bill <Bill.Jordan@alston.com>; Olga Vieira <olgavieira@quinnemanuel.com>; Jonathan Cooper <jonathancooper@quinnemanuel.com>; ESI-Opioids <esi-opioids@quinnemanuel.com>

Subject: RE: Discovery Conferences

Dear ESI,

This process originates from the original *Appointment Order* (Doc. #69) (Filed: 01/11/18) which describes the duties of the special master to include: (1) meet separately and together with various groups to facilitate communications between and amongst (a) the parties, (b) any relevant outside entities, and (c) the Court; (2) assist the Court with mediating resolution of any part of the parties' disputes; (3) provide legal analysis of the parties' submissions; (4) ensure coordination with any related litigation or governmental action; (5) assist with preparation for attorney conferences (including formulating agendas), court scheduling, and case management; (6) interpret any agreements reached by the parties; and (7) direct, supervise, monitor, and report upon implementation and compliance with the Court's Orders. The Special Masters shall organize their activity to ensure non-duplication of effort and appropriate attention to the various groups of interested parties and counsel. A copy of the Appointment Order is attached for your reference.

The “informal process” is described as well: “If a Special Master issues an *informal ruling* or order that is not on the record (such as the resolution of a discovery dispute) either orally, via email, or through other writing, and a party wishes to object to that ruling or order, the party shall ask the Special Master to formalize the ruling or order by filing it on the docket or appearing before a court reporter. Such request shall be made within three days of issuance of the informal order or ruling, else the opportunity to object shall be waived. The procedures and deadlines outlined in this section shall then apply.” (p.5) (emphasis added for dramatic effect).

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-John Adams
President of the United States.
Trial lawyer.

From: owner-pbm@listserv.motleyrice.com <owner-pbm@listserv.motleyrice.com> On Behalf Of David R. Cohen (David@SpecialMaster.Law)

Sent: Wednesday, February 14, 2024 7:54 AM

To: Sage Vanden Heuvel <sagevandenheuvel@quinnemanuel.com>

Cc: Peter Mougey <pmougey@levinlaw.com>; Page Poerschke <ppoerschke@levinlaw.com>; PBM@LISTSERV.MOTLEYRICE.COM; McGowan, Emily <Emily.McGowan@alston.com>; Tara MacNeill <taramacneill@quinnemanuel.com>; Boone, Brian <Brian.Boone@alston.com>; Harder, Bradley <Bradley.Harder@alston.com>; Madison Shelquist <mshelquist@levinlaw.com>; Springer, Brandon <Brandon.Springer@alston.com>; Eric Lyttle <ericlyttle@quinnemanuel.com>; Chemerinsky, Kim <Kim.Chemerinsky@alston.com>; Jordan, Bill <Bill.Jordan@alston.com>; Olga Vieira <olgavieira@quinnemanuel.com>; Jonathan Cooper <jonathancooper@quinnemanuel.com>; ESI-Opioids <esi-opioids@quinnemanuel.com>
Subject: Re: Discovery Conferences



External
(david@specialmaster.law)



GUA

Thank you for your suggestions. As for today, I look forward to "listening in" on your continued meet and confer during our telecon. I anticipate mostly listening, to begin gaining an understanding of the issues, and I may provide a light, mediating touch to help resolve disputes that you cannot bridge. I may also suggest the parties provide position statements via letter brief on issues where it is clear that agreement is not possible. We will see about the need for future meetings.

To repeat, I expect the parties to continue the meet-and-confer process during today's telecon, while I listen in. Like the PBMs, I am "hopeful that the parties can reach agreement on [many of] their disputes through a good faith meet and confer process." The extent to which we need any future meetings and motion practice will depend on your progress.

-d

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This email sent from:
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From: Sage Vanden Heuvel <sagevandenheuvel@quinnemanuel.com>
Sent: Tuesday, February 13, 2024 9:10 PM
To: David R. Cohen (David@SpecialMaster.Law) <david@specialmaster.law>
Cc: Peter Mougey <pmougey@levinlaw.com>; Page Poerschke <ppoerschke@levinlaw.com>;
PBM@LISTSERV.MOTLEYRICE.COM <PBM@LISTSERV.MOTLEYRICE.COM>; McGowan, Emily
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Subject: RE: Discovery Conferences

Dear Special Master Cohen,

Earlier this afternoon, the Plaintiffs and PBMs had their first meet-and-confer to discuss temporal and geographic scope objections. That meeting lasted approximately one hour, and during the conference the parties reached tentative agreement on several geographic scope issues.

Just a few hours ago, after the meet and confer, counsel for the Plaintiffs delivered their first response to Optum Rx's objections and discovery responses. A similar response was sent to Express Scripts on Friday, and the parties intend to meet and confer to discuss their positions. The PBMs are hopeful that the parties can reach agreement on their disputes through a good faith meet and confer process.

Nonetheless, Plaintiffs continue to press an informal process for bringing discovery issues to the Court. While we are willing to meet with the Court after a proper meet-and-confer and when issues are ripe for the Court's consideration, the PBMs object to informal discovery rulings. If counsel for the Plaintiffs believe that a discovery issue is ripe, they must bring a motion to compel, as Federal Rule of Civil Procedure 37 contemplates.

As to Plaintiffs' proposal for weekly meetings with the Court, the PBMs do not believe such a process would be practical or efficient. Among other issues, weekly conferences would discourage the parties from working things out on their own and meeting and conferring productively, instead relying upon the Court to settle each dispute.

Best,

Sage

Sage R. Vanden Heuvel

Of Counsel

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From: Madison Shelquist <mshelquist@levinlaw.com>

Sent: Tuesday, February 13, 2024 3:08 PM

To: David@SpecialMaster.Law

Cc: Peter Mougey <pmougey@levinlaw.com>; Page Poerschke <ppoerschke@levinlaw.com>; PBM@LISTSERV.MOTLEYRICE.COM; McGowan, Emily <Emily.McGowan@alston.com>; Tara MacNeill <taramacneill@quinnemanuel.com>; Sage Vanden Heuvel <sagevandenheuvel@quinnemanuel.com>; Boone, Brian <Brian.Boone@alston.com>; Harder, Bradley <Bradley.Harder@alston.com>; Springer, Brandon <Brandon.Springer@alston.com>; Eric Lyttle <ericlyttle@quinnemanuel.com>; Chernerinsky, Kim <Kim.Chernerinsky@alston.com>; Jordan, Bill <Bill.Jordan@alston.com>; Olga Vieira <olgavieira@quinnemanuel.com>; Jonathan Cooper <jonathancooper@quinnemanuel.com>; ESI-Opioids <esi-opioids@quinnemanuel.com>

Subject: Discovery Conferences

[EXTERNAL EMAIL from mshelquist@levinlaw.com]

Special Master Cohen:

Please see the attached correspondence from Peter Mougey.

Thank you,

Madison Shelquist

Paralegal

Opioid Department

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